

**CALIFORNIA COASTAL COMMISSION**

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Staff report:	2/14/2002

**Coastal Commission Actions & Dates**

Hearing Opened & Continued:	4/14/99
Substantial Issue Found:	3/16/00
De Novo Hearing date:	3/7/2002

## APPEAL STAFF REPORT DE NOVO HEARING

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**Appeal number** ..... **A-3-SLO-99-019, La Playa San Simeon Homeowners Assn., et al**

**Applicants** ..... La Playa San Simeon Homeowners Assn., et al

**Appellants** ..... Commissioners Tuttle and Nava

**Local government** ..... San Luis Obispo County

**Local decision** ..... Approved with conditions (February 5, 1999)

**Project location** ..... 9221 through 9227, 9229, 9231 Balboa Avenue (west side of Balboa Avenue – North Coast Planning Area), San Simeon (San Luis Obispo County ) (APN(s) 013-403-06, 013-403-12, 013-403-24)

**Project description** ..... Construction of rip-rap revetment to protect three existing condominium structures, requiring access to the beach for the construction; removal and replacement of existing stairway to the beach.

**File documents** ..... San Luis Obispo County Certified Local Coastal Program (LCP); Final Local Action Notice 3-SLO-99-018 and attached materials; geologic bluff studies: Mark Johnsson Field Review, Senior Geologist California Coastal Commission, May 1<sup>st</sup>, 2000; Earth Systems Consultants, March 19, 1998; Pacific Geoscience, Inc., October 3, 1986. Coastal Commission permit files 4-84-284, 4-86-236, 4-85-175, 418-28, 42-2, 125-29.

### **Staff recommendation . Denial**

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**Staff Note:** On March 16, 2000, the Commission found that the Appeal raised a substantial issue with respect to this project's conformance with the certified San Luis Obispo County LCP and took jurisdiction over the coastal development permit for the proposed project (A-3-SLO-99-019). At that time the Commission voted to continue the de novo hearing to a later date.

The continuance was requested by Commissioners in order to have a site review performed by the staff geologist. The purpose of this request was to evaluate the site's rate of bluff retreat and to evaluate the



**California Coastal Commission**  
**March 2002 Meeting in Monterey**

Staff: J. Bishop Approved by:

A-3-SLO-99-019 La Playa San Simeon Homeowners Assn., et al rip-rap strpt.doc

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necessity of the proposed rip-rap revetment. Mark Johnsson, Commission's staff Geologist visited the site on April 24th, 2000 to review the project. Dr. Johnsson concluded that the erosion rates used in the analysis of this project were accurate and rein concluded that the proposed rip-rap is unnecessary at this time. On Friday, February 8<sup>th</sup>, 2002 staff again visited the site. Based on the information gathered at this most recent site review, it appears that the bluff conditions are substantially the same. Further discussion of this most recent geologic evaluation and field review can be found in *Section 6.1-Geologic Conditions and Hazards* findings of this report.

Continuance also was due in part to a lack of information regarding the permit history of pre-existing development on the beach, including the rock rip-rap located seaward of the San Simeon Community Wastewater Treatment Plant, existing wooden access stairways, and sandbags located on the bluff face in the vicinity of the project site. Since the March 2000 Commission hearing, staff has conducted research into the permit history (if any) of the pre-existing development on the beach. At this time, it is unknown whether these pre-existing structures have been built with the benefit of a Coastal Development Permit. Subsequently, an enforcement case has been opened and possible violations will be handled through the Commission's Enforcement Program. Finally, recent site visits have led to the discovery of concrete and rebar debris on the beach in front of the project site. This debris may be a result of slumping fill material from the site and presents a public safety, access, and visual impact on the beach fronting the project. This situation has been reported to the Enforcement Program of the Commission and is being investigated for possible enforcement action.

**Summary of staff recommendation:** The Commission found that a substantial issue exists with respect to this project's conformance with the certified San Luis Obispo County Local Coastal Program (LCP) and took jurisdiction over the coastal development permit for the proposed project on March 16, 2000. This is the de novo coastal development permit hearing for the proposed development subject to appeal number A-3-SLO-99-019. Staff recommends that the Commission **deny** the coastal development permit for this proposed development as detailed in this staff report.

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## 1. Staff Report Summary

The Applicants propose to construct a bluff protective structure to protect three existing condominiums on blufftop lots located on the west side of Balboa Avenue in the community of San Simeon Acres, San Luis Obispo County (North Coast Planning Area). The proposed revetment would be approximately 120 feet in length, with a minimum width of 5 feet to a maximum width of 10 feet seaward of the toe of the



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bluff, covering approximately 960 square feet of a lateral public accessway already accepted by the County of San Luis Obispo.

On March 16, 2000, the Commission found a substantial issue in terms of the project's conformance with the certified LCP, thereby taking jurisdiction over the CDP for the proposed development, and voted to continue the de novo hearing to a later date.

## 1.1 Shoreline Structures

The LCP limits the construction of shoreline structures to projects "necessary for protection an existing development". Commission staff, including the Commission's Senior Coastal Engineer and staff Geologist have reviewed the geotechnical analysis provided by the Applicants in support of the proposed project and have determined that the existing blufftop condominiums at the site are not significantly threatened as required by the LCP to allow for shoreline armoring and therefore that such armoring is unnecessary. The most seaward part of any principal structure is 16 feet from the bluff edge at this location and is not currently threatened by shoreline erosion. Although wave run-up during storm surge conditions can result in some storm attack at the base of the bluff, and although some scour is likely at the end of the existing revetment to the north of the site, such conditions do not create an *imminent* threat. Shoreline protection at this location, therefore, is inconsistent with the LCP.

Even were an existing structure in danger at this location, the LCP requires that "non-structural methods of protection (artificial sand nourishment or replacement) have been proven to be impractical or infeasible." In this case, the Commission's Senior Coastal Engineer has evaluated the project and determined that "drainage controls, an upper bluff retaining wall, sand replenishment, or maintenance programs" are reasonable engineering solutions that may address upper bluff issues at this site without requiring a shoreline structure. In other words, engineering alternatives are feasible, as is the "no project" alternative based on the lack of significant erosional danger to existing structures at this location; these less damaging alternatives have not been pursued. This is inconsistent with the LCP.

## 1.2 Public Access & Recreation

According to Public Resource Code Section 30604(c) appealed projects located between the first public road and the sea must also be consistent with Coastal Act public access and recreation policies, as well as the certified LCP. The appellants contend that the proposed revetment would interfere with public access and recreation by covering up a significant area of the beach, and would be placed on top of an existing lateral access easement traversing at least two of the subject parcels. Additionally, the proposed development would replace existing private vertical access stairs located at the northernmost boundary of the site. The development of this site with a revetment that serves no public purpose, that is not



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necessary to protect an existing structure significantly threatened, that would unnecessarily degrade the adjacent beach recreational area, and that would displace other LCP-described priority uses, is inconsistent with the LCP and the Coastal Act.

The LCP and Coastal Act require protection of existing accessways. The proposed revetment would block an existing public lateral access easement. The County's previously required access mitigation for this impact was ambiguous and it is unclear if this accessway would be adequately protected. Were the revetment to be otherwise approvable (which it is not), both the lateral access easement and vertical access stairway required by the County and/or the Applicant's alternative access mitigation would need to be better defined (including both any legal instrument(s) and the proposed physical stairway replacement) in order to be found consistent with the LCP and the Coastal Act.

### 1.3 Visual Resources

The LCP requires protection of existing visual access at this location. With the exception of the existing rip-rap, put in place to prevent further undermining of an existing San Simeon community Services District waterline/sewerline support structure (the status of the original coastal development permit for this rock is unknown at this time; however, additional rip-rap was approved by the County in 1995 pursuant to an emergency permit), a few wooden access stairways, and approximately 100 sandbags, the surrounding bluff face is free of protective structures. The proposed revetment would add a "hard" structure to the existing bluff face replacing relatively pristine ocean and bluff vistas at this location with an artificial rock pile. Travelers along this stretch of beach would no longer see a meandering coastal bluff altered only at its end by unsightly rock, but rather would see a large revetment in front of the previously unadorned bluff. This would negatively redefine the scenic corridor, reframe the ocean vista at this location, and upset the general viewshed of the open beach at this location. The Applicant's alternative proposal (concrete retaining wall) could act to alleviate some visual concerns if the proposed project were otherwise approvable. However, a vertical seawall also contains visual impacts, even if mitigated to the greatest extent feasible by coloring and texturizing its surface. These negative viewshed impacts are inconsistent with the LCP.

### 1.4 Conclusion

In sum, there is not a significantly threatened structure at this location. Even if such a case were clearly established, it is not clear that the proposed project would be the least environmentally damaging feasible solution to protect such a threatened existing structure. Even if it could then be demonstrated that the proposed revetment were the least environmentally damaging feasible solution, the impacts on public access and visual resources are considerable.



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**The project is inconsistent with the Coastal Act and certified LCP, unnecessarily impacts coastal resources, and staff is recommending denial.**

Finally, to restore coastal resources at the site, and in the interest of the public, if the rip-rap and sandbags located on or near this site are lacking permits, they must be removed and the site restored to its pre-violation status as soon as possible. Since removal and restoration constitute "development," any such activities will require CDPs; one for work on the beach (in the Commission's CDP permitting jurisdiction) and an appealable CDP for that portion in the County's CDP jurisdiction above the toe of the bluff. In any event, removal and restoration will be handled through separate enforcement action.

### 2. Local Government Action

On February 5, 1999, the San Luis Obispo County Administrative Hearing Officer conditionally approved the project as D970319P; this action was not appealed to the San Luis Obispo County Board of Supervisors. Notice of this San Luis Obispo County final local action was received in the Commission's Central Coast District Office on February 24, 1999. See Exhibit A for the County's staff report, findings and conditions on the project. The Commission's ten-working day appeal period for this action began on February 25, 1999 and concluded at 5:00 P.M. on March 10, 1999. Valid appeals by Commissioners Tuttle and Nava were received during the appeal period.

### 3. Procedural History (Post-County Action)

On April 14, 1999, the Commission opened and continued the substantial issue hearing on the appeal because the County had not delivered the Administrative Record on the County's decision to the Commission's Central Coast District office in time for Commission staff to prepare a staff report with a full analysis and recommendation for the Commission's April meeting. The applicant waived the 49 day hearing requirement on March 29, 1999. On March 16, 2000, the Commission found that the Appeal raised a substantial issue with respect to this project's conformance with the certified San Luis Obispo County LCP and took jurisdiction over the coastal development permit for the proposed project (A-3-SLO-99-019). At that time the Commission voted to continue the de novo hearing to a later date. The continuance was requested by Commissioners in order to have a site review performed by the staff geologist to evaluate the current and anticipated rate of bluff retreat. Continuance also was due in part to a lack of information regarding the permit history of pre-existing development on the beach, including the rock rip-rap located seaward of the San Simeon Community Wastewater Treatment Plant, existing wooden access stairways, and sandbags located on the bluff face in the vicinity of the project site. Further discussion of this most recent geologic evaluation can be found in *Section 6.1-Geologic Conditions and Hazards* of this report. Since the March 2000 Commission hearing, staff has researched



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the permit history of the existing development on the beach. At this time, it is not clear whether the existing development on the beach was built with the benefit of a Coastal Development Permit. The Commission's Enforcement Program has subsequently opened a potential violation case file.

### 4. Staff Recommendation on Coastal Development Permit

The staff recommends that the Commission, after public hearing, **deny** a coastal development permit for the proposed development.

***Motion.*** *I move that the Commission approve Coastal Development Permit Number A-3-SLO-99-019 for the developments proposed by the Applicant.*

***Staff Recommendation of Denial.*** *Staff recommends a **no** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.*

***Resolution To Deny The Permit.*** *The Commission hereby denies a coastal development permit for the proposed development on the grounds that the project will not conform with the policies of the San Luis Obispo County Local Coastal Program, and that it is located between the sea and the first public road nearest the shoreline and it will not conform with the access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse effects of the development on the environment.*

### Recommended Findings and Declarations

The Commission finds and declares as follows:

### 5. Project Description & Background

The proposed project involves the placement of rock rip-rap seaward of Balboa Avenue on the beach and bluffs of San Simeon Acres in San Luis Obispo County. The rip-rap revetment would be approximately 120 feet in length, range in height from 15.2 feet to 20 feet, and have a minimum width of 5 feet to a maximum width of 10 feet seaward of the toe of the bluff. The size of rip-rap to be used ranges from ¼ - to 5 ton rock with at least 50 percent of the rock at a size 3 tons or greater. To provide support for the structure and to minimize the potential for scouring underneath the structure, a 5-foot "key" would be



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excavated to a minimum depth of 2 feet into firm bedrock. The largest rock would be placed in the key, at the base and on the face of the structure. The face of the rip-rap structure would slope at a maximum of 1.5:1 (horizontal to vertical dimension) (see Exhibit D, Project Plans).

### 5.1 Regional Setting

San Luis Obispo County is a rural county along California's scenic Central Coast, with roughly 100 miles of shoreline and a wealth of significant natural resources and agricultural lands. Urban development in the unincorporated area of the County's coastal zone is concentrated in the communities of San Simeon Acres (the area subject to this de novo review), Cambria, Cayucos, South Bay – Los Osos, Avila Beach and Oceano.

San Luis Obispo County's coastal setting make the area a desirable place to both live and visit. As a result, San Luis Obispo County has experienced significant growth since final certification of the LCP in 1988. According to figures developed by the Department of Finance (DOF), the county had a population of 204,448 at the time of LCP certification. By 2000 the population had grown to 245,025, an increase of almost 20 percent. This growth not only increases the regional need for housing, jobs, roads, urban services, infrastructure, and community services but also the need for parks and recreational areas. For coastal counties such as San Luis Obispo where the vast majority of residents live within a half-hour of the coast, coastal recreational resources are seen as a critical element in helping to meet these needs. Furthermore, with coastal parks and beaches themselves attracting visitors into the region, an even greater pressure is felt at coastal recreational systems such as that found in San Simeon Acres.

San Simeon Acres is part of a larger North Coast area including the town of Cambria and large rural grazing landholdings of the Hearst Ranch. The North coast area is home to some of the best recreational beaches in California. North Coast area beaches are generally the first beaches accessed by visitors coming from the north of San Simeon. With Highway 1 providing the primary access point from the north (including Monterey Bay and Big Sur) into the North Coast area, San Simeon Village, Hearst Memorial State Beach, San Simeon Acres, and Cambria are some of the first coastal areas that visitors encounter. As such, the San Simeon Acres beach area is an important coastal access asset for not only San Luis Obispo County, but also the entire central and northern California region.

See Exhibit C for regional location maps.

### 5.2 North Coast Area

The North Coast Area extends from the Monterey/San Luis Obispo County line on the north to Point Estero on the south. It is rural, landscape, and forms a natural extension of the Big Sur coastline. The forested Santa Lucia Mountains form the backdrop and numerous perennial streams flow across narrow,



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grassy marine terraces. The shoreline is predominantly rocky with prominent headlands at Ragged Point, Point Sierra Nevada, and Piedras Blancas. Highway 1 parallels the shoreline and runs through the large rural grazing landholdings of the Hearst Ranch, south to the gradually broadening coastal terrace and small communities at San Simeon Acres and Cambria. Small-scale tourist facilities are located along Highway 1, along with the Hearst Castle, a State Park and a major visitor destination.

### 5.3 Project Location

The proposed project is located on the bluffs and beach fronting the seaward end of Balboa Ave. The beach at this location is known locally as San Simeon Acres, approximately 3 miles south from Hearst Castle. Originally part of the old Rancho San Simeon, the community of San Simeon Acres lies along the Pacific Ocean overlooking San Simeon Bay. San Simeon is a small commercial village developed to provide tourist/recreation services along the central coast. There are 706 visitor-serving hotel and motel rooms currently in San Simeon Acres. Because of the large number of second homes and resulting high vacancy rates, the actual permanent population of San Simeon Acres is difficult to estimate. According to the 1990 U.S. census, San Simeon Acres had a permanent population of 128. Recent County estimates place the current population at approximately 248 and list a total of 330 dwellings.

This narrow beach is defined on its inland edge by relatively low coastal bluffs (approximately 15 feet high). The toe of the bluff is fronted by beach deposits, which also surround isolated scattered outcrops of resistant bedrock. The bluff face exposes three different soil units: topsoil, terrace deposits, and artificial fill. These units overlie dense sandstone of the Franciscan Formation. The northern portion of this site is bound by the east-west trending Arroyo Del Padre Juan Creek and the San Simeon Acres Community Service District wastewater treatment plant. To protect the wastewater plant from creek and sea wave erosion, the County of San Luis Obispo constructed a rip-rap bank/bluff protection structure at the site. The southern portion of this coastal area is currently undeveloped.

### 5.4 Project Description

The applicants propose to construct a rock revetment to protect the three existing blufftop condominium developments. The project is located on the seaward side of Balboa Avenue, in the community of San Simeon, San Luis Obispo County (9227 Balboa (APN 013-403-12) is a one-story, four-unit development, and 9229 Balboa (APN 013-403-006) and 9231 Balboa (APN 013-403-024) are two-story, five-unit condominiums). Location maps are attached as Exhibit C.

The applicants are proposing to place rip-rap along the bluff face, extending from the existing stairway located at 9227 Balboa (APN 013-403-12) to the northern portion of 9231 Balboa (APN 013-403-24), where the proposed rock will tie in with the existing rock located seaward of the San Simeon Acres



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Community Services District wastewater treatment plant (Project plans are attached as Exhibit D). The proposed revetment would be approximately 120 feet in length, with a minimum width of 5 feet to a maximum width of 10 feet seaward of the toe of the bluff (according to submitted project plans, the majority of the revetment will be located a distance of approximately 8 to 9 feet seaward of the toe of the bluff).

The existing stairway used for private access to the beach is located between 9229 and 9231 Balboa would be removed during construction activities and reconstructed to extend past the proposed revetment. In addition, an improved temporary accessway for construction equipment is proposed from Cliff Avenue, approximately 600 feet north of the project site, in order to perform the necessary work on the beach. The beach in this area is characterized by low bluffs, approximately 15 feet in height, which are mostly unarmored, except for an existing rip-rap revetment located along the bluff face, north of the project site, in front of the wastewater treatment plant. See Exhibit D for proposed project plans.

## 6. Coastal Development Permit Determination

When the Commission found a substantial issue in terms of the project's conformance with the certified LCP on March 16, 2000, the Commission took jurisdiction over the CDP for the proposed project. The standard of review for this CDP determination is the County LCP and the Coastal Act's access and recreation policies.

### 6.1 Geologic Conditions and Hazards

#### 6.1.1 LCP Policies

The County-approved rip-rap revetment is inconsistent with the following LCP requirements regarding construction of shoreline protective devices for existing development.

#### **Hazards Policy 4: Limitations on the Construction of Shoreline Structures.**

*Construction of shoreline structures that would substantially alter existing landforms shall be limited to projects necessary for:*

- a. protection of existing development...;*
- b. public beaches and recreation areas in danger of erosion;*
- c. existing public roadway facilities to public beaches and recreation areas where no alternative routes are feasible.*

*...Where shoreline structures are necessary to serve the above, siting shall not preclude public access to and along the shore and shall be sited to minimize the visual impacts,*



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*erosive impacts on adjacent, unprotected property, encroachment onto the beach and to provide public overlooks where feasible and safe. The area seaward of the protective devices shall be dedicated for lateral public access.*

### **CZLUO Section 23.05.090 – Shoreline Structures.**

**c. Required Findings.** *In order to approve a land use permit for a shoreline structure, the...applicable review body shall first find that that the structure is designed and sited to:*

- (1) Eliminate or mitigate adverse impacts on the local shoreline sand supply as determined by a registered civil engineer or other qualified professional; and*
- (2) Not preclude public access to and along the coast where an accessway is consistent with provisions of section 23.04.420; and*
- (3) Be visually compatible with adjacent structures and natural features to the maximum extent feasible; and*
- (4) Minimize erosion impacts on adjacent properties that may be caused by the structure; and...*
- (5) Not adversely impact fish and wildlife; and*
- (6) That non-structural methods of protection (artificial sand nourishment or replacement) have been proven to be impractical or infeasible.*

Under the LCP in this case, clearly the first and most important test of this policy is to determine whether or not the proposed development is “necessary” to protect existing development.

#### 6.1.2 Defining the Threat to the Existing Structure

San Luis Obispo County LCP Hazards Policy 4 limits the construction of shoreline structures to those *necessary* to protect existing development, beaches and recreation areas in danger of erosion, or for the protection of existing public roadway facilities to public beaches and recreation areas where no alternative routes are feasible. In this case, the applicants have requested that the rip-rap revetment be constructed to protect the three existing condominium developments.

To show that the condominiums are in danger from erosion, there would need to be an *imminent* threat to these structures. While each case is evaluated based upon its own merits, the Commission has generally interpreted “imminent” to mean that a structure would be imperiled in the next two or three storm cycles (generally, the next few years). The Commission must always consider the specifics of each individual project, but has found that accessory structures (patios, decks, stairways, etc.) are not required to be protected, or can be protected from erosion by relocation or other means that do not require shoreline armoring. In their correspondence (attached as Exhibit N), one of the applicants refers



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to the condominium building at 9229 Balboa as being located approximately 13 feet from the edge of the bluff. However, based on submitted project plans, this measurement was taken from the edge of the patio, and not the actual condominium building. Based on the understanding that blufftop setback measurements exclude such accessory structures, this condominium is actually located approximately 16 feet from the top of the bluff, and represents the primary structure located closest to the blufftop.

The applicants have submitted a geotechnical report that documents the geologic structure and recent history of the bluffs in the project area (Earth Systems Consultants, March 19, 1998). Bluff retreat rates can be difficult to accurately measure. In this case, the most recent bluff retreat rate was estimated from the total amount of bluff lost since 1957 (measured from a Caltrans air photograph) and averaging that amount over the 41-year period. This study, in conjunction with consideration of present soil composition, slope angle, and potential for slumping, resulted in an average bluff retreat rate of 5 to 6 inches per year. The geotechnical report states in relevant part:

*The results of two measurements indicated that there was approximately 16 feet of bluff retreat between 1957 and 1998, or an average bluff retreat rate of almost 5 inches per year. It was also concluded that the fill soils would retreat at a slightly faster rate of 6 inches per year due to their loose, uncompacted condition.*

Along much of the California coast, erosion and bluff retreat result from a combination of processes. Especially important are wave erosion, groundwater, and surface drainage. The geotechnical report does not provide any detailed discussion concerning the various conditions that contributed to this historic retreat. However, since the retreat from 1957 to 1998 totaled 16 feet and during a portion of this 41 year period, from 1989 to 1999, the bluff eroded 13 feet, it appears that 80% of the 16 feet of retreat for the 1957 to 1998 time period has occurred since 1989. Based on these figures, bluff erosion for the 32 year period between 1957 and 1989 averaged approximately 1.5 inches a year, while the erosion rate for the 10 year period between 1989 and 1999 averages 1.6 feet a year – a ten fold increase. In addition, the applicants' civil engineer submitted a letter, dated December 29, 1999 (attached as Exhibit L), subsequent to the geotechnical report, which asserts the following:

*We have determined, based on a record development plan and recent field measurements, that there has been approximately 13 feet of bluff erosion since 1989, a short term bluff retreat rate in excess of over one foot per year.*

No supporting data has been submitted to support this claim that the bluff has experienced a short-term increase in retreat rate, which contradicts an original geotechnical report prepared for the condominiums. Bluff retreat is typically episodic, with periods of rapid retreat interspersed with periods of lower erosion. Staff observations of the site over the past two years have indicated that the rapid erosion indicated for the 1989-1999 period (which may have occurred over a shorter time span than the 10 years



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bracketed by that interval) has not continued to the present. It thus seems likely that a period of accelerated erosion, perhaps related to the 1997-1998 El Nino, occurred at the site and lead to an alarming amount of bluff retreat, but that this retreat has since abated to a large degree.

A comparison of the three condominium's original blufftop setbacks with existing blufftop setbacks does reveal that recent bluff retreat (over the last twenty years) has exceeded the estimated retreat rates used to establish the original blufftop setbacks at the time of coastal development permit approval of the condominiums. The table below outlines these varying bluff retreat rates and building setbacks.

Property	Year of Project Approval/ Completion	Original Building Setback	Original Estimated (Long-Term) Bluff Retreat Rate	Current Building Setback (based on submitted plans)	Recent Bluff Retreat Rate <sup>2</sup>
9227 Balboa	1980/1985 <sup>1</sup>	25'	3-6 in./year	17'	5 in./year
9229 Balboa	1986/1989	27'	4 in./year	16'	9 in./year
9231 Balboa	1977/1984	23'	unknown	23'	0 ft./year <sup>3</sup>

<sup>1</sup> Exact year not known; however, was completed between 1981 and 1985.

<sup>2</sup> Calculation: (Original Building Setback – Current Building Setback) ÷ (Present Year – Year of Project Approval).

It should be noted that the estimated recent bluff retreat rates shown in the table above are representative of a fairly short period of time and may not be as accurate as estimates made over a much longer time span.

At the March 16, 2000 hearing, the Commission requested that an updated geotechnical evaluation be conducted. In this case, a further analysis of the potential factors contributing to an accelerated rate of erosion and an assessment of whether the bluff will continue to retreat at an increased rate in the future was performed. Staff Geologist Mark Johnsson visited the site in March of 2000 and re-confirmed the erosion rates and bluff setback data presented in this analysis (See Exhibit O). Furthermore, the report attributes much of the erosion and episodic slumping to “surficial erosion and groundwater processes,” rather than wave run-up and marine scouring. As shown in the bluff study, the bluff is located well above the highest high tide line. Even the maximum wave run-up height calculated in the study (wave height of three feet, period of five seconds) only reaches an elevation of 14.2 feet, impinging on only the lowest 2.5 feet of the bluff. Thus, it appears that much of the bluff erosion appears to be related to groundwater processes within the fill and at the fill/terrace border, not wave action.

Given both the retreat rates quoted above, the current distance of the condominiums from the bluff edge, and the analysis of the mechanisms of bluff erosion and retreat, Dr. Johnsson does not recommend an artificial revetment at this time. He states:



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*“The structures at Balboa Avenue do not appear to be in imminent danger from erosion, and the erosion that is occurring seems to be related principally to groundwater processes. Except from buttressing the toe of the slope, a revetment would have limited effect in slowing retreat of the part of the bluff on which is exposed artificial fill. Those portions of the slope in which terrace deposits are exposed are not undergoing retreat rates that will threaten the structures for at least the next 20 years.”*

Due to the amount of time that has elapsed since the last geotechnical evaluation, a follow-up site visit was performed by Commission staff on February 8<sup>th</sup>, 2002. The purpose of the site visit was to evaluate the current condition of the bluff and to observe any significant changes that may have occurred since the last field review was conducted. Existing conditions were observed from the beach as well as from the top of the bluff. Generally, it appears that the bluff condition is substantially the same.

First, the bluff was observed from the beach in order to document any episodic slumping or new bluff failures. Slumping was observed in two areas, principally in front of 9229 Balboa Avenue. In this general vicinity only one large piece of concrete was dislodged and had fallen onto the beach. This occurred approximately 2.5 feet up from the toe of the bluff, in an area overgrown with iceplant. Clearly, this concrete piece was part of the exposed artificial fill documented in previously cited bluff studies. A comparison of photos taken from the previous site visit reveals that bluff slumping in this area has not changed dramatically.

Secondly, measurements were taken from atop the bluff in order to observe any changes to the distance that the condominiums are setback from the top of the bluff. Measurements were taken from six (6) locations that coincided with the 1998 Topographic Survey performed by North Coast Engineering. At each location, the setbacks appear not to have changed. It should be noted that these measurements were not meant to be exact, but only used as a reference to show if dramatic changes had since occurred. Based on the current information gathered by Commission staff, the bluff appears to be in substantially the same condition. Although some areas continue to erode sporadically, the condominiums still do not appear imminently threatened.

Based on the table above, combined with the most recent geotechnical analysis, and assuming that the retreat rate of the bluff in this area currently ranges from 5 to 9 inches per year, the structure located at 9227 Balboa will not be undermined for approximately 23 to 40 years. Although the structures might be threatened before foundation elements are actually undermined, the bluff is not likely, based on the data presented above, to encroach within a 6-foot buffer zone for at least 15 to 26 years. Therefore, the structure is not considered to be in imminent danger. The condominium building located at 9229 Balboa will not be undermined for at least another 21 years. Again, with the consideration of a six-foot buffer, this structure would not be threatened for at least 13 years, and therefore, is not considered to be in imminent danger. Finally, the third parcel, located at 9231 Balboa, has shown no sign of bluff retreat in



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recent years and this property still has its full setback. The property is partially protected by the revetment, seaward of the San Simeon Community Services District wastewater treatment facility (the status of the original coastal development permit for this rock is unknown at this time; however, additional rip-rap was approved by the County in 1995 pursuant to an emergency permit). Although the rock revetment has not protected a portion of the bluff in front of this condominium building, limited signs of bluff retreat are visible in this area. This building has, nevertheless, been included in the application for shoreline protection and its erosion history is considered in the full review of the proposal.

Overall, even the worst case scenario presented by the applicants does not support a finding that the structures are in danger from erosion. Recent geotechnical studies at the site do not justify a revetment at 9227-9231 Balboa Avenue at this time. Lacking a demonstrable imminent threat, the proposed revetment is unnecessary and inconsistent with LUP Policy 4, and CZLUO Section 23.05.090. The coastal development permit for the project, as submitted and approved by the County, should be denied based on inconsistencies with LCP requirements and the lack of an *imminent* threat to the existing blufftop condominiums.<sup>1</sup>

### 6.1.3 Visual Compatibility

CZLUO Section 23.05.090 c(3) states that shoreline structures shall be sited to be visually compatible with the surrounding structures and natural features. With the exception of the existing rip-rap, put in place to prevent further undermining of an existing San Simeon Community Services District waterline/sewerline support structure, sandbags, and a few wooden access stairways, the surrounding bluff face is free of protective structures and appears as a natural, unaltered marine terrace (please see photos attached as Exhibit E). Much of the blufftop south of the project site is undeveloped, and any new development will be sited an appropriate distance from the bluff edge to prevent a need for shoreline protective devices. Thus, it can be assumed that the area will remain in a relatively unaltered state, and therefore, the construction of a shoreline structure, at least as currently proposed, would not be visually compatible with the natural features of the area. This issue is further discussed in the Visual Resources section of this report.

### 6.1.4 Alternatives to Shoreline Protection

CZLUO Section 23.05.090 also requires that findings be made, prior to considering a shoreline structure such as a rock revetment or seawall, that any non-structural methods of protection have been explored and proven to be impractical or infeasible. Insufficient evidence has been provided to indicate that the

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<sup>1</sup> See also discussion in Finding 6.1.6 of coastal development permit history of the condominiums



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requirements of Subsection c(6) have been satisfied. The geotechnical report notes that, “The main conditions that contributed to the bluff instability are the low strength of the soil when wet and the steep slope angle of the bluff face.” Further, there is some evidence that the bluff slumping is due to groundwater. However, there has been no consideration of drainage controls or non-structural efforts to reduce this component of bluff instability. The only alternatives proposed in the geotechnical report are structural, and no discussion of non-structural methods of protection is included (see Exhibit M). Insufficient evidence has been provided to show that alternatives such as drainage controls, an upper bluff retaining wall, sand replenishment or maintenance programs on the blufftop itself have been examined and deemed infeasible. Nor, has it been demonstrated that the structures are in imminent danger from erosion. In the discussion of a retaining wall option (proposed subsequent to County approval), the reason given for prompt action is “delaying installation of a bluff protection structure will result in extreme construction cost inflation because more expensive structural construction methods may need to be employed the closer the erosion gets to the structures.” It is possible that with the proactive implementation of some non-structural protection methods, the need for these more expensive construction methods can be avoided or postponed for many years.

There are several alternatives to the subject revetment extension that are feasible in this case and which would not involve the substantial negative impacts to coastal resources that would be expected from the proposed project. The solution most consistent with the LCP would be a combination of drainage control and groundwater management. The Commission’s Senior Geologist has concluded that this is indeed a feasible engineering solution at this location. Accordingly, the proposed revetment extension is unnecessary and is inconsistent with LUP Policy 4 and CZULO Section 23.05.090

Therefore, even if the case were made that a structure was at risk, it is premature for the applicants to conclude that the preferred alternative is a rip-rap revetment or a vertical seawall (proposed subsequent to the County’s approval of the rip-rap revetment), lacking an in-depth analysis of impacts, potential mitigations and potential design alternatives. The request for a coastal development permit for the project, as submitted and approved by the County, should be denied based on its inconsistencies with LCP requirements and the applicants’ lack of consideration of alternatives to the proposed shoreline structure.

### 6.1.5 Sand Supply Impacts

The LCP requires that “In order to approve a land use permit for a shoreline structure, the...applicable review body shall first find that the structure is designed and sited to: (1) Eliminate or mitigate adverse impacts on the local shoreline sand supply...” (CZLUO Section 23.05.090(c)(1)). The County asserts that this is the case, however, there is no discussion of this issue in the County findings. The Commission’s experience statewide has been that shoreline protection structures have a significant and measurable effect on shoreline process and sand supply. The natural shoreline processes referenced in



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the subject LCP policies, such as the formation and retention of sandy beaches, can be significantly altered by construction of protective structures, since bluff retreat is one of several ways that beach quality sand is added to the shoreline. Bluff retreat and erosion is a natural process resulting from many different factors such as erosion by wave action causing cave formation, enlargement and eventual collapse, saturation of the bluff soil from ground water causing the bluff to slough off, and natural bluff deterioration. Shoreline armoring directly impedes these natural processes.

Beach material comes to the shoreline from inland areas, carried by rivers and streams; from offshore deposits, carried by waves; and from coastal dunes and bluffs, becoming beach material when the bluffs or dunes lose material due to wave attack, landslides, surface erosion, gulying, et cetera. Coastal dunes are almost entirely beach sand, and wind and wave action often provide an on-going mix and exchange of material between beaches and dunes. Many coastal bluffs consist in whole or in part of marine terrace deposits – sediment formed on ancient shore platforms and beaches when the land was lower relative to the sea than it is today (as is the case in San Simeon Acres). Much of the material in the terraces is often beach quality sand or cobble, and a valuable contribution to the littoral system when it is added to the beach. Bluff erosion is a natural means by which this material is added to the beach. When the back beach or bluff is protected by a shoreline protective device, the natural contribution of material from the bluff to the beach will be interrupted and there will be a measurable loss of material to the beach.

Some of the effects of engineered armoring structures on the beach (such as scour, end effects and modification to the beach profile) are temporary or difficult to distinguish from all the other actions which modify the shoreline. Such armoring also has distinct qualitative impacts to the character of the shoreline and visual quality. However, some of the effects that a structure may have on natural shoreline processes can be quantified, including: 1) loss of the beach area on which the structure is located; 2) the long-term loss of beach which will result when the back beach location is fixed on an eroding shoreline; and 3) the amount of beach quality material which would have been supplied to the beach if the back beach or bluff were to erode naturally.

In this case, the proposed revetment would extend along the bluff headland fronting Balboa Avenue. As such, the loss of the beach area on which the structure would be located (approximately 960 square feet) is potentially significant. Due to a lack of information regarding the project's impacts to sand supply, the proposed project is also inconsistent with CZLUO Section 23.05.090(c)(1).

### 6.1.6 Permit History/Deed Restrictions

All three parcels have a coastal development permit history. In particular, each was reviewed for consistency with Coastal Act Section 30253, which states in relevant part:



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*New development shall (1) minimize risks to life and property in areas of high geologic, flood, and fire hazard. (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

It should also be noted that both 9227 and 9229 Balboa (APNs 013-403-012 and 013-403-006, respectively) have recorded deed restrictions on the property, pursuant to a condition of the coastal development permits originally issued for the construction of the two condominium structures. These restrictions require the property owners to assume the risk of storm wave runup and shoreline erosion associated with a blufftop parcel. The content of the deed restrictions are discussed below.

Coastal development permit 4-86-236 was issued to Midland Pacific Building Corporation in 1986, for a two-story, 5-unit condominium development on parcel number 013-403-006 (formerly 013-031-030), noted as Lot B (9229 Balboa) on the project site plan. The previous geological analysis of this site was reported (Pacific Geoscience, Inc., October 3, 1986) and summarized in the Commission staff report prepared at that time (an excerpt of the staff report is attached as Exhibit J). The recorded deed restriction for this parcel includes an assumption of risk, attached as Exhibit H, which states in relevant part:

*...The undersigned Owner, for himself/herself and for his/her heirs, assigns, and successors in interest, covenants and agrees that they understand that the site may be subject to extraordinary hazards from the storm wave runup and associated shoreline erosion and they assumed the liability from such hazards; and unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards....*

Coastal development permit 418-28 was issued to Robert and Carol Sessa in 1980, for a one-story, 4-unit condominium development on parcel number 013-403-012 (formerly 013-036-065), noted as Lot C (9227 Balboa) on the project site plan. The previous geological analysis of this site was reported and summarized in the Commission staff report prepared at that time (an excerpt of the staff report is attached as Exhibit K). The recorded deed restriction for this parcel, attached as Exhibit I, includes an assumption of risk, similar to the restriction noted above, and a limitation on future requests for a seawall, which states in relevant part:

*...The [applicant] agrees that...(d) any future requests for a seawall or protective devices will not be evaluated upon the necessity of saving the structure, but shall be evaluated on*



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*a balance of the Coastal Act Policies and by so doing shall minimize impacts on policy areas including, but not limited to, public access, scenic quality and natural landforms...*

Coastal development permit 125-29 was issued to J.A. & R.M. Stinson in 1977 to construct a two-story, 5-unit apartment building on parcel number 013-403-024 (formerly 013-031-029), noted as Lot A on project plans. Although this parcel does not have a similar deed restriction as those stated above, a finding was made regarding the geologic stability of the site, which states in relevant part:

*The proposed site is underlain with a rock known as the Franciscan formation whose instability and potential erosion problems have been well documented by the Cal. Division of Mines and Geology. Prior to the development of this lot a geologic report should be filed which...express[es] the professional opinion as to whether the project can be designed so that it will neither be subject to nor contribute significantly to geologic instability throughout the lifespan of the project.*

This finding recognizes the potential for erosion problems on the subject parcel and addresses the need to locate development so that it will neither be threatened by bluff retreat, nor contribute significantly to bluff failure. Although staff has not been able to determine when such a report was done, these findings indicate that the applicant was apprised of the risks of development in this location, and that the condominium building should have been set back an appropriate distance, based on a geologic report filed prior to construction, to prevent the need for a shoreline protective structure.

In addition, coastal development permit 4-84-284, issued for the conversion of the apartment building to condominium purposes, was conditioned to require the property owner to make an irrevocable offer to dedicate both lateral and vertical public access easements to a public agency or private organization approved by the Executive Director of the Coastal Commission.

Blufftop setbacks are established for the purpose of locating development out of harms way, without the need for a shoreline protective device, for the life of the structure, typically estimated at 75 years. Oftentimes, the distances of these setbacks meet or exceed conclusions made in geologic reports. When two of the condominium buildings (9227 and 9229 Balboa) were originally constructed, they were set back 25 feet from the bluff edge, pursuant to conclusions made in geologic studies for the sites and surrounding area (erosion rates of 3-6 in/yr and 4 in/yr, respectively). With these setbacks, the structures were, in theory, setback for at least 75 years without risk from shoreline erosion.<sup>2</sup>

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<sup>2</sup> In adopting these findings, and in light of the permit history of these structures, the Commission expresses no opinion as to whether the condominiums previously approved under Coastal Act section 30253, if shown to be in danger from erosion sometime in the future, would qualify for shoreline protection under Coastal Act section 30235 as "existing structures".



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### 6.1.7 Geologic Conditions and Hazards Conclusion

Commission staff, including the Commission's Senior Coastal Engineer and Senior Geologist have reviewed the geotechnical analysis provided by the Applicants in support of the proposed project and have determined that neither of the existing blufftop structures are imminently threatened as required by the LCP to allow for shoreline armoring. Recent site visits and bluff studies conducted by Commission staff reinforce this determination. Furthermore, there are feasible alternatives for maintaining the bluff, including those that do not involve constructing the revetment. As such, the Commission finds that the proposed revetment request is unnecessary and inconsistent with the certified LCP policies discussed in this finding and is therefore denied. Finally, sand supply impacts were not addressed in the County's review of the proposed project. Due to a lack of information regarding the project's impacts to sand supply, the proposed project is also inconsistent with CZLUO Section 23.05.090(c)(1) and is therefore denied.

### 6.2 Public Access and Recreation

The project is located between the first public road and the sea. As such, the project must be consistent not only with the certified LCP but also the access and recreation policies of the Coastal Act. Sections 30210 through 30214 of the Coastal Act state that maximum access and recreation opportunities to be provided, consistent with, among other things, public safety, the protection of coastal resources, and the need to prevent overcrowding. Coastal Act Sections 30210 and 30211 specifically protect the public's right of access to the blufftop and sandy beach in front of the condominiums.

#### 6.2.1 Applicable Policies

**Coastal Act Section 30210.** *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

**Coastal Act Section 30211.** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

**Coastal Act Section 30221.** *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future*



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*demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Coastal Act Section 30240(b) also protects parks and recreation areas. Section 30240(b) states:

***Section 30240(b).*** *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

**LCP Shoreline Access Policy 2: New Development.** *Maximum public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development . . .*

**CZLUO Section 23.04.420: Coastal Access Required.** Development within the Coastal Zone between the first public road and the tidelands shall protect and/or provide coastal access as required by this section...

### 6.2.2 Blocked Public Access

When two of the condominiums (9227 and 9229 Balboa) were originally permitted, and when 9231 Balboa converted from an apartment building to a condominium, the property owners were required to make an irrevocable offer to dedicate a lateral easement for public access and passive recreational uses running the entire width of the property, from the mean high tide line to the toe of the bluff (please see Exhibit F and G for two of the three deed restrictions). San Luis Obispo has since accepted and thus manages those public lateral access easements, which are solely for public access and recreational use. The proposed revetment would cover approximately 960 square feet (120 feet in length multiplied by an average of 8 feet in width) of sandy beach easement area. This is in direct conflict with the public rights that have been established by virtue of the access dedications. The effect of covering this beach area with the proposed revetment would be to remove a portion of the beach from public use. At higher tides, the impact on public use of this area of the beach would be exacerbated given that tidal influence foreshortens the beach at these times. Another effect would be to further limit the public's ability to gain access both up and down the coast laterally along this stretch of beach, particularly at higher tides. Furthermore, the rocks that make up rip-rap revetments can tend to migrate onto the beach and present a public access and public safety impediment.

The applicant's engineer has proposed several structural alternatives including a proposal for a vertical seawall. In the short term, the vertical seawall proposal, involving cutting and filling of the existing bluff, may have a lesser impact on public access than the proposed revetment, as it would not necessitate



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covering a significant portion of the sandy beach (please see Exhibit M). However, in the long-run, as is true of most shoreline structures, the seawall would eventually cause the dry beach to disappear, as explained in more detail below, which leaves the seawall to protrude into the ocean, thereby inhibiting public access to and along the beach.

The above mentioned adverse public access impacts contradict Coastal Act Sections 30210, 30211, and 30221, which protect such recreational areas and the public's right of access thereto. Furthermore, in addition to the direct loss of useable recreational beach area, the introduction of the proposed revetment would tend to have a number of long term effects on the dynamic shoreline system and the public's use of the beach. First, the revetment would lead to a progressive loss of sand as shore material is not available to nourish the sand supply system. Second, and particularly in combination with the loss of sand generating materials, the proposed revetment would fix the back beach location. The effect on public use is that the useable beach space narrows; eventually this beach area between the revetment and the water would be expected to disappear. Third, changes in the shoreline profile, particularly changes in the slope of the profile which result from a reduced berm width, alter the useable beach area restricted for public access. A beach that rests either temporarily or permanently at a steeper angle than under normal conditions will have less horizontal distance available for the public to use. This reduces the actual area in which the public can pass on property restricted for public access. Fourth, the proposed revetment would cumulatively affect public access by causing accelerated and increased erosion on the adjacent beaches. This effect may not become clear until such devices are constructed individually along a shoreline. Fifth, since the proposed revetment is not sited so far landward that it would only be acted upon during severe storm events, beach scour, particularly during the winter season, will be accelerated because there is less beach area to dissipate the wave's energy. This will act to exacerbate the narrowing of the useable beach space available for public access. It should be noted that no site specific evidence has been submitted by the applicants to address these generally well documented impacts of shoreline structures.

### 6.2.3 Public Access and Recreation Conclusion

Overall, even if the proposed revetment or vertical seawall were consistent to this point with the County's LCP, the Commission finds that the proposed shoreline structures are inconsistent with the beach access and recreational use policies of Coastal Act Sections 30210, 30211, and 30221, LCP Shoreline Access Policy 2 and CZLUO Section 23.04.420. Because of these access inconsistencies, and because the revetment is not otherwise approvable (as detailed in the previous geologic findings), the Commission denies the proposed revetment project.



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### 6.3 Visual Resources

#### 6.3.1 Applicable Policies

Visual access to and along the coast is a form of public access. As such, and as described in the above public access and recreation finding, the standard of review for visual access is not only the certified LCP but also the access policies of the Coastal Act. Applicable Coastal Act policies are:

***Section 30210.** In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

***Section 30211.** Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

***Section 30251.** The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

The San Luis Obispo County LCP addresses the need to protect the scenic and visual qualities of the coast. Applicable policies are discussed below.

#### **Visual and Scenic Resources Policy 1: Protection of Visual and Scenic Resources.**

*Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved, and in visually degraded areas restored where feasible.*

#### **Visual and Scenic Resources Policy 2: Site Selection for New Development.**

*Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors....*



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### **Visual and Scenic Resources Policy 10: Development on Beaches and Sand Dunes.**

*Prohibit new development on open sandy beaches, except facilities required for public health and safety (e.g. beach erosion control structures)....*

#### **6.3.2 Visual Access Issues**

The proposed rip-rap revetment has potential to adversely impact the scenic and visual qualities of the area. Impacts on the public viewshed have not been adequately addressed through exploration of alternative revetment designs, the project has not been designed to minimize the alteration of natural landforms, and it is not visually compatible with the character of the surrounding area. Commission experience in other Central Coast communities has shown that it is possible to minimize the visual impacts associated with rock revetments through landscape ‘caps’ and sand camouflaging. For example, in Carmel, 35-foot tall rock revetments are essentially invisible to the public eye because they have been constructed with landscaping elements that drape over the top of the rocks and sand which is piled up at the base of the structures. Regular maintenance, particularly following storm events, keeps these revetments camouflaged and the visual impacts are essentially eliminated. Although the proposed revetment is somewhat smaller in size than the example given, it is possible that alternative revetment designs, if done with consideration for impacts to visual resources and natural landforms, may be more appropriate in the area.

The applicants’ alternative proposal for a vertical seawall may have similar impacts on the visual resources of the area. Because the beach and bluff face surrounding the project is relatively free of shoreline armoring devices, any form of protective structure will essentially alter the natural characteristics of the San Simeon Acres beach area.

Visual Resource Policy 10 prohibits new development on beaches, except for facilities required for the health and safety of the public. Insufficient evidence has been provided to conclude that the proposed revetment is necessary to protect the public from coastal hazards related to bluff erosion, and therefore, the project does not meet the requirements of this policy.

#### **6.3.3 Visual Access Conclusion**

In conclusion, based on the intent of these policies to protect the unique and attractive features of the landscape, preserve views to and along the ocean, and protect the health and safety of the public, in conjunction with the previous analysis of the project’s inconsistency with CZLUO Section 23.05.090, the project is inconsistent with Visual Resource Policies 1, 2, and 10 of the LCP.

In sum, the proposed project is inconsistent with the visual policies cited in this finding and is therefore denied. Denial of the project retains the existing scenic viewshed at this location “to the maximum



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extent possible” consistent with LCP and Coastal Act policies which protect this resource.

### 6.4 California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Coastal Commission’s review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. All of the issues previously forwarded to the County in early 1998 during the CEQA review period are the same issues that have been discussed in this appeal. There are crucial information gaps, a lack of critical analyses, and major LCP and Coastal Act policy inconsistencies. Most importantly, the geotechnical information available shows that there is not an existing structure that is significantly threatened at this location that would warrant the proposed shoreline protection and the range of negative coastal resource impacts associated with it.

As illustrated by the findings in this staff report, the Commission finds that the proposed revetment would result in significant adverse effects on the environment within the meaning of CEQA and that the “no project” alternative is the least environmentally damaging feasible alternative to the proposed project. Accordingly, the proposed project is not approvable under CEQA and is denied.



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